

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

MARK ZWIEBEL,

Plaintiff,

Case No. 3:11-CV-239

Judge Thomas M. Rose

-v-

**PLASTIPAK PACKAGING, INC.,
et al.,**

Defendants.

**ENTRY AND ORDER GRANTING ZWIEBEL'S MOTION TO REMAND
(Doc. # 6) AND REMANDING THIS MATTER TO THE COURT OF
COMMON PLEAS OF SHELBY COUNTY, OHIO**

Plaintiff Mark Zwiebel ("Zwiebel") filed his Complaint in the Court of Common Pleas of Shelby County, Ohio, on June 13, 2011. (Doc. #3.) Zwiebel's Complaint was timely removed to this Court on July 13, 2011.¹ (Doc. #1) Zwiebel subsequently filed a Motion To Remand (doc. #6) that is now ripe for decision.

Zwiebel's Complaint was removed by Defendant Plastipak Packaging, Inc. ("Plastipak") on the basis of federal question jurisdiction. Plastipak alleged that Zwiebel's Complaint brings claims pursuant to the Occupational Safety and Health Act and the Due Process Clause of the U.S. Constitution.

On August 3, 2011, Zwiebel filed a First Amended Complaint (doc. #7) and a Motion To Remand (doc. #6). Zwiebel's Motion To Remand asserts that he has not made any federal claim, and that his claim is a state claim for wrongful discharge in violation of public policy.

¹Service had not been perfected on Rick Naegele, the other named defendant.

On August 24, 2011, Plastipak confirmed that Zwiebel's First Amended Complaint asserts an Ohio cause of action for violation of public policy. (Doc. #9.) Plastipak also consents to remand of this matter.

The First Amended Complaint asserts an Ohio claim for wrongful discharge in violation of public policy. The Parties do not argue otherwise. Therefore, this Court does not have subject matter jurisdiction and this matter is hereby remanded to the Court of Common Pleas of Shelby County, Ohio.

DONE and **ORDERED** in Dayton, Ohio this Twenty-Fifth day of August, 2011.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record